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## FACSIMILE SHEET

DATE: August 27, 2004

USSN: 10/021,049

CLIENT MATTER NO.: 9400-127

TO: Mail Stop Amendment  
USPTO

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FROM: Elizabeth A. Stanek

TELEPHONE NO.: 919-854-1400

Number of Pages (including cover sheet): 4

MESSAGE

In re: Scott C. Holt et al.

Confirmation No. 6158

Serial No.: 10/021,049

Group Art Unit: 2645

Filed: December 19, 2001

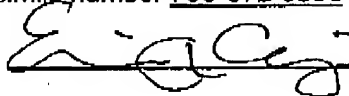
Examiner: Gerald Gauthier

For: SYSTEMS AND METHODS FOR MONITORING NETWORK-BASED VOICE  
MESSAGING SYSTEMS

Attached please find the following:

- Notice of Foreign Filing (1 page)
- Remarks After Allowance (2 pages)

## CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 CFR § 1.8

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Erin Campion

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PAGE 1/4 \* RCVD AT 8/27/2004 11:22:25 AM [Eastern Daylight Time] \* SVR:USPTO-EFXXRF-1/2 \* DNIS:8729306 \* CSID:919 854 1401 \* DURATION (mm-ss):01-34

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AUG 27 2004

PATENT

Attorney Docket No. BS01-143 (9400-127)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Scott C. Holt *et al.*

Serial No.: 10/021,049

Filed: December 19, 2001

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Examiner: Gerald Gauthier

Group Art Unit: 2645

August 27, 2004

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450Remarks After Allowance

A Notice of Allowance was mailed in the above-referenced application on June 29, 2004, and was received by Applicants' current representative on July 7, 2004. Upon reviewing the file for allowance, it came to Applicants attention that a non-publication request was filed in the above-referenced application on December 19, 2001 and was rescinded by a Rescission of Non-Publication Request filed January 7, 2003. The Rescission of Non-Publication Request was filed well within 45 days of the foreign filing date of the PCT application (PCT/US02/39855), which was filed on December 13, 2002.

35 U.S.C. § 122(b)(2)(B)(iii) states:

(iii) An applicant who has made a request under clause (i) but who subsequently files, in a foreign country or under a multilateral international agreement specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

Furthermore, 37 C.F.R. § 1.213(c) states:

(c) If an applicant who has submitted a nonpublication request under paragraph (a) of this section subsequently files an application directed to the invention disclosed in the application in which the nonpublication request was submitted in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant must notify the Office of such filing within forty-five days after the date of the filing of such foreign or international application. The failure to timely notify the Office of the filing of such foreign or

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In re: Holt *et al.*  
Serial No.: 10/021,049  
Filed: December 19, 2001  
Page 2

international application shall result in abandonment of the application in which the nonpublication request was submitted (35 U.S.C. 122(b)(2)(B)(iii)).

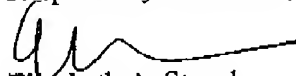
At the time Applicants filed the Rescission of Non-publication Request, Applicants' reasonably believed that the Rescission of Non-Publication submitted within 45 days of the foreign filing would satisfy the notice required by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 C.F.R. § 1.213(c).

Thereafter, in the Official Gazette of October 7, 2003, nine months after Applicants filed the Notice of Rescission of Non-Publication and well after the 45 day period, a proposed clarification to 37 C.F.R. § 1.213(c) stated that "the mere filing of a request to rescind a previously filed nonpublication request...does not comply with the foreign filing notice requirement of 35 U.S.C. § 122(b)(2)(B)(iii) to provide notice to the Office within 45 days of the filing of a counterpart application..." It appears that this proposed clarification of 37 C.F.R. § 1.213(c) have not been implemented, as neither 35 U.S.C. § 122(b)(2)(B)(iii) nor 37 C.F.R. § 1.213(c) have been amended since the publication of the October Gazette.

Nonetheless, to complete the file of the above referenced application, Applicants submit herewith a Notice of Foreign Filing in compliance with the proposed clarification of 37 C.F.R. § 1.213(c) and request that this Notice be accepted as timely filed for the reasons discussed herein.

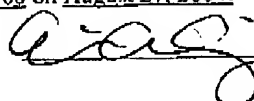
No fee is believed due. However, the Commissioner is hereby authorized to charge any fee, which may be required for the current submission, or credit any refund, to Deposit Account No. 50-0220.

Respectfully Submitted,

  
Elizabeth A. Stanek  
Registration No. 48,564

**CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 CFR § 1.8**

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AUG 27 2004

Attorney Docket No. BS01-143 (9400-127)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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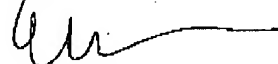
August 27, 2004

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Alexandria, VA 22313-1450

Notice of Foreign Filing

In accordance with 37 C.F.R. § 1.213, Applicants hereby notify the U.S. Patent and Trademark Office that the above referenced application was foreign filed on December 13, 2002 and is now International Publication No. WO 03/055184.

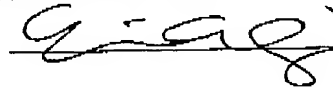
Respectfully Submitted,



Elizabeth A. Stanek  
Registration No. 48,568

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Erin Campion